

NO: X06-UWY-CV18-6046436-S : SUPERIOR COURT

ERICA LAFFERTY : COMPLEX LITIGATION DOCKET

V. : AT WATERBURY, CONNECTICUT

ALEX EMRIC JONES : JANUARY 10, 2023

. :

NO: X06-UWY-CV18-6046437-S : SUPERIOR COURT

WILLIAM SHERLACH : COMPLEX LITIGATION DOCKET

V. : AT WATERBURY, CONNECTICUT

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**REPLY TO DISCIPLINARY COUNSEL’S OBJECTION TO MOTION FOR STAY AND
REQUEST FOR EXPEDITED REVIEW**

Pursuant to Practice Book 61-12, the Respondent, Attorney Norman Pattis,
moved this Court to stay enforcement of the order of the Court, Bellis, J., dated January

5, 2023 suspending him from the practice of law for six months. Thereafter the Court ordered Disciplinary Counsel to file an objection on or before January 10, with a reply due by January 12. Disciplinary Counsel filed its objection on January 9, and undersigned counsel hereby files his Reply and requests that this Court expedite its review and take the matter on the papers as Attorney Pattis is presently waiting to end jury selection and begin opening arguments in the matter of *United States of America v. Ethan Nordean, Et Al.*, 21-CR-175 (TJK), where a motion for emergency order is pending seeking an order permitting him to remain in that case, and that Court has indicated that the decision of this Court in the present matter will factor into its decision. Those opening arguments had been scheduled to begin January 10, 2023, but proceedings have been delayed until Thursday, January 12, 2023.

Undersigned has contacted Disciplinary Counsel, who consents to this matter being taken and decided on the papers.

I. FACTS RELIED UPON

Since the suspension order was issued, Pattis has taken down his blog page and letters of notice have gone out to all of his clients. He is presently counsel for Joe Biggs in the *Nordean* case, and prior to his suspension he had drafted and filed the appeal for the Jones defendants in the instant case. Much of the potential harm that could befall these clients as a result of the suspension would be ameliorated by the stay sought by Pattis, and he would be ready to serve the suspension regardless of the status of the writ of error. There is a six year statute of limitations on lawyer discipline cases, and this is not a P.B. §2-42 interim suspension case, such that time is not of the essence to

protect clients from irreparable harm nor to preserve the viability of the action against Pattis.

II. LEGAL GROUNDS RELIED UPON

In making a determination as to whether to issue a stay under P.B. §61-12, courts must balance the equities, as elucidated in *Griffin Hospital v. Commission on Hospitals & Health Care*, 196 Conn. 451, 493 (1985), which counsels the court to apply 'familiar equitable principles in the context of adjusting the rights of the parties during the pendency of the litigation until a final determination on the merits.' *Id.*, 456. While approving a general 'balancing of the equities test' as the benchmark for granting or denying a motion for stay, *Griffin* also recites a list of non-exclusive factors that a court should consider including the likely outcome on appeal, whether the movant faces irreparable prospective harm from the enforcement of the judgment, and the effect of the delay occasioned by a stay upon the non-moving parties. *Id.*, 456-57. The court may also consider "the public interest involved." (Footnote omitted.) *Griffin Hospital v. Commission on Hospitals & Health Care*, *supra*, 456.

Our Supreme Court in *Burton v. Mottolese*, 267 Conn. 1, Fn. 50 (2003) has approved use of the ABA model standards for imposing discipline. Of the aggravating ten factors listed by the ABA, not a single one is present in this case. *Id.* Of the thirteen mitigating factors listed, nearly all are present here: Pattis has no prior record of discipline, possessed no dishonest or selfish motive in making the unauthorized disclosure, he made timely good faith efforts to rectify the situation once he recognized his error, he displayed remorse and acknowledged that the responsibility rested on his shoulders, he was under time pressure when the unauthorized disclosure was made to the bankruptcy lawyer who

was to be of record in that matter and who requested the materials, and interim steps have been taken to address this single instance of misconduct and prevent it from recurring. Moreover, under the ABA standards actual harm is the standard, as potential harm can be not just incalculable, but dangerously speculative.

III. ARGUMENT

Despite Disciplinary Counsel's arguments to the contrary, the equities in this case nonetheless militate in favor of a stay. While it is true that judges enjoy wide discretion in matters of attorney discipline, Disciplinary Counsel failed to point to even a single case where that discretion was used to impose a six month suspension for a mistaken records release and thereafter deny a stay. Again, the Respondent is likely to prevail on this record, in light of the disparity between the misconduct and the punishment meted out. In any event, even if the Court should be affirmed, that ought to be at a time when the inevitable consequences of such a decision would befall the Respondent, and not harm his clients.

Disciplinary Counsel acknowledges the harm that the immediate suspension would impose on Pattis, and argues that such is the lot for all attorneys who are suspended for less than two or three years. In doing so, however, he makes no distinction between those cases where imminent harm qualifies the Respondent for an interim suspension under P.B. §2-42, and those where the harm was isolated and potential, rather than actual, as is the case before this Court. That is a distinction with a difference, as this is not a case where there is any threat of imminent harm claimed, such that the punishment here is intended to protect the Court alone. To that extent, a stay would not injure the Court, as it would merely hold the punishment in abeyance

and, moreover, the punishment has already gained national attention and Pattis has had a clean disciplinary record forever lost.

While Disciplinary Counsel makes mention of the irreparability of harm factor, he makes no effort to weight it in the balance against the other equities, a duty this Court cannot shirk. Plainly stated, there is little mystery as to why Disciplinary Counsel dismisses this factor in his objection: the irreparability of the injury the Respondent has suffered and would continue to suffer as a result of immediate implementation of the suspension order is easily calculable and its weight grows by the day like so much interest. Immediate implementation of a six month suspension vitiates the Respondent's appellate review, as his suspension would almost certainly be fully served before resolution of his Writ of Error.

That irreparable harm is only compounded by the effect of a stay upon other parties to the proceeding: the Defendants in this matter would be effectively denied their counsel of choice, and the Plaintiffs would certainly suffer further delay if the Defendants should be forced to seek other counsel who would then have to be brought up to speed in a matter that can only be described as *sui generis* as to both its factual and procedural complexity. Disciplinary Counsel argues that all clients of attorneys who suffer a suspension would be similarly affected; perhaps, but that assumes that no stay is granted, whereas granting the stay would protect the other parties and allow for an orderly resolution of the appeal while ensuring that the bulk-- if not the entirety-- of the punishment falls on Pattis. It is no excuse to simply argue that "[t]his is something that is simply unavoidable" when, in fact, a stay would avoid much of the collateral

consequences to the other parties that the jarring rush of an immediate suspension imposes.

Finally, the Court's interest in securing the public interest and administering and imposing professional discipline-- not as punishment, but rather to enforce its standards and norms of attorney conduct for the protection of the public, the faith of the public in the court and the guidance of the legal profession-- would not be hindered or interfered with by staying the discipline order and allowing the orderly disposition of the appeals of the underlying cases and of the discipline order and giving Attorney Pattis time to make plans for his clients' cases in case his appeal is unsuccessful. There is nothing untimely about issuing a stay to allow these proceedings to play out on appeal, as the appellate process is itself fundamental to the legal process. Disciplinary Counsel argues that "it is important for the public, and most importantly the plaintiffs in the underlying civil matter, to have faith that they may use the judicial process and their personal information will be properly safeguarded", and that is entirely true. But in protecting the integrity of the judicial process, the Court must strive to maintain the appearance of impartiality and the substance of due process lest it erode the public's faith in the fairness of the system itself. Certainly, there are aspects of the disciplinary process at issue here that already raise the specter of partiality, and it would only strengthen the public's faith in the process if a stay was entered to allow the higher courts to review these proceedings. To the extent that the public and plaintiffs' must "have faith that...their personal information will be properly safeguarded", this was a singular instance of unauthorized disclosure, and steps have already been taken to prevent such misconduct from recurring.

WHEREFORE, THE RESPONDENT PRAYS that this court stay the discipline order until the disposition of the appeals of the underlying cases and of the suspension order.

Respectfully Submitted,

Norman Pattis, Respondent

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CERTIFICATIONS

The undersigned hereby certifies the following:

That the foregoing has been delivered electronically to the last known e-mail address of each counsel of record for whom an e-mail address has been provided

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